IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6364 of 2007()

CRIME NO. 994/07 OF KOLLAM EAST POLICE STATION

PETITIONERS/ACCUSED 1,2,3,4,AND 6

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1. VIPIN,S/O.JACOB
   THILLERY MISSION COMPOUND, UDAYA MARTHANDAPURAM
   CHERRY, MUNDAKKAL, KOLLAM.

2. LENIN (A2)
   S/O.GEORGE, 20 ASSISSI NAGAR,
   THILLERY MISSION COMPOUND, UDAYA MARTHANDAPURAM
   CHERRY, MUNDAKKAL, KOLLAM.

3. BINU (A3)
   S/O. LILARY, 12 ASSISSI NAGAR,
   THILLERY MISSION COMPOUND, UDAYA MARTHANDAPURAM
   CHERRY, MUNDAKKAL, KOLLAM.

4. FELIX BEN (A4)
   S/O. BEN,
   THILLERY MISSION COMPOUND, UDAYA MARTHANDAPURAM
   CHERRY, MUNDAKKAL, KOLLAM.

5. RAHUL (A6) T.R.A. NAGAR
   UDAYA MARTHANDAPURAM CHERRY, MUNDAKKAL, KOLLAM.

BY ADV. SRI.DILEEP P.PILLAI

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6364 of 2007

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Dated this the 22nd day of October, 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 1 to 4 and 6. They face allegations for offences punishable, inter alia, under Section 27 of the Arms Act and Sections 143, 147 and 148 r/w. 149 I.P.C. The crux of the allegations is that the petitioners, in an attempt to create panic and terror in the local people, indulged in the acts of intimidation and threatening. On receipt of information, the police party reached the scene, but by then the miscreants took to their heels abandoning the weapons and the motor vehicles. The names of the accused persons were ascertained by the police from the local people and their names do fnd a place in the earliest documents like the seizure mahazar and F.I.R. Six named persons and four others not named are arrayed. Investigation is in progress. None of them is arrested.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They have been arrayed without any tangible materials. Even allegedly the petitioners have not

caused any injury to any one. In these circumstances anticipatory bail may be granted to the petitioners, submits the learned counsel.

3. The learned Prosecutor opposes the application. He submits that the investigation is not complete. None of the accused has been arrested so far. There is absolutely no justification in the prayer of the petitioners for anticipatory bail.

4. Having considered all the relevant inputs, I am not persuaded to agree that this is a fit case where directions under Section 438 Cr.P.C. can or ought to be issued. I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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